

Tax Type: PROPERTY TAX  
Issue: Charitable Ownership/Use

THE MACNEAL MEMORIAL HOSPITAL	)	Docket No.(s)	92-16-1512
ASSOCIATION	)		
Applicant	)		
	)	PI No.(s)	16-31-216-024-0000
	)		and 16-31-216-025-0000
	)		
v.	)		
	)		
THE DEPARTMENT OF REVENUE	)		
OF THE STATE OF ILLINOIS	)	George H. Nafziger	
	)	Administrative Law Judge	
	)		

APPEARANCES     Mr.   Arnold   E.   Karolewski,   attorney   for   Applicant,  
appeared on behalf of Applicant.

SYNOPSIS A hearing was held in this matter on August 30, 1994. The two parcels here in issue are improved with a five-story brick building, with a basement. This building is commonly known as the Professional Services Building, and is located on the MacNeal Memorial Hospital Campus. Is Applicant a charitable organization? Did Applicant own the parcels here in issue during 1992? Did Applicant use the parcels here in issue and the entire building located thereon, for charitable purposes during 1992? Following the submission of all the evidence and a review of the record, it is determined that Applicant is a charitable organization, and that Applicant owned the parcels here in issue during the entire 1992 assessment year. It is also determined that the areas of the building on these parcels used by Applicant during 1992, were used for charitable purposes during that year. Applicant concedes that the area of the building leased to four groups of physicians was not used for charitable purposes during

1992. Finally, it is determined that the area occupied by the partnership consisting of Applicant and Mason-Barron Laboratories, doing business as Damon Clinical Laboratories, was not used for charitable purposes during 1992, but rather was otherwise used for profit.

FINDINGS OF FACT The Department's position in this matter was established by the admission in evidence of Department's Exhibits 1 through 6C.

The persons who were present at the hearing and testified on behalf of Applicant, were Mr. Larry P. Bell, division director of Applicant, and Mr. Kenneth W. Kuhn, vice-president and chief financial officer of Applicant.

On July 2, 1993, the Cook County Board of Appeals forwarded a Statement of Facts in Exemption Application, concerning the parcels here in issue and the building thereon, for the 1992 assessment year to the Illinois Department of Revenue (Department's Exhibit 2). On January 6, 1994, the Department of Revenue issued its decision, exempting the parcels here in issue and 62% of the building thereon, and denying the exemption of the remaining 38% of said building, for all of the 1992 assessment year (Department's Exhibit 3). On January 21, 1994, Applicant's attorney requested a formal hearing in this matter (Department's Exhibit 4). The hearing held on August 30, 1994, was held pursuant to that request.

Applicant is an Illinois not-for-profit corporation, originally incorporated as the Berwyn Hospital Association, on March 28, 1931. The stated purpose of the Berwyn Hospital Association was to own and operate a hospital. During 1992, Applicant operated a 427-bed acute care hospital.

Applicant owned the parcels here in issue and the five-story, with basement, brick building located thereon, known as the Professional Services Building, during all of the 1992 assessment year. I take Administrative Notice of the fact that since the Department, by its decision dated January 6, 1994, exempted the parcels here in issue and the

area of the building occupied by Applicant's hospital departments that the Department has determined that Applicant is a charitable organization. The correct percentage of the square footage of the building on these parcels occupied by Applicant, is approximately 64% rather than 62%, as indicated by the Department's determination dated January 6, 1994. Applicant concedes that the approximately 9% of the square footage of this building leased to physicians and used by them as their offices for the for-profit practice of medicine, was properly subject to real estate taxation for the 1992 assessment year.

The remaining approximately 27% of the square footage of the building on these parcels was occupied by a partnership consisting of Applicant and Mason-Barron Laboratories, Inc., doing business as Damon Clinical Laboratories (hereinafter referred to as "Damon"). This partnership was formed in 1983, to perform general medical laboratory work, including all the laboratory work of Applicant. Damon operates both during the day, and at night. Applicant's requests for laboratory work are generally required to be performed during the day. Damon is then able to perform work for other customers at night. Mr. Kuhn testified that the revenues generated by Applicant's laboratory work constituted approximately 25% of the net revenues of Damon during 1992. Damon does not pay rent to Applicant for the space it occupies in the building on these parcels. Mason-Barron Laboratories, Inc. is a for-profit corporation organized pursuant to the Illinois Business Corporation Act. During 1992, the partnership agreement recited that each of the partners, both the for-profit company and Applicant, were to receive 50% of the profits and/or losses generated by the partnership.

Damon, during 1992, set its own fees based on market conditions, since the clinical laboratory business is very competitive. Applicant, during 1992, provided a substantial amount of charity, or fee care, to its

patients. When that care included laboratory fees owed to Damon, Applicant, while it did not try to recover those laboratory fees from its charity patients, did reimburse Damon for the services Damon had provided (Transcript Page 61). Consequently, the partnership did not provide any free or charity care.

During the fiscal year ended September 26, 1992, Applicant, on its Exempt Organization Business Income Tax Return, included the share of the net profit of Damon, which was \$871.00. For the previous year, Applicant's Exempt Organization Business Income Tax Return had shown a net loss from Damon, of approximately \$329,000.00. Mr. Kuhn testified that before 1983, when the partnership was formed and Applicant had operated its own laboratory, the losses had been even greater. He thus concluded that the benefits of the partnership to Applicant were a substantial reduction in operating costs and improvement in the level of service, beside the fact that Applicant did receive a very small distribution of net profit for 1992.

1. Based on the foregoing, I find that Applicant is a charitable organization.

2. I also find that Applicant owned the parcels here in issue and the building thereon, during all of 1992.

3. I further find, as a matter of fact, that the areas of the building on these parcels used by Applicant during 1992, were used for charitable purposes during that year.

4. The area of the building on these parcels which was leased to four groups of physicians in private practice during 1992, I find, was not used for charitable purposes during that year.

5. Finally, I find that the area of the building on these parcels occupied by the partnership of Applicant and Mason-Barron Laboratories doing business as Damon, was not used for charitable purposes during 1992,

but was otherwise used for profit.

CONCLUSIONS OF LAW Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

"The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes."

35 ILCS 205/19.7 (1992 State Bar Edition), exempts certain property from taxation in part as follows:

"All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States,...when such property is actually and exclusively used for such charitable or beneficent purposes, and not leased or otherwise used with a view to profit;...."

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. *International College of Surgeons v. Brenza*, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. *People ex rel. Goodman v. University of Illinois Foundation*, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. *MacMurray College v. Wright*, 38 Ill.2d 272 (1967).

I conclude, based on the documents and testimony in the record, that Applicant is a charitable organization, and that Applicant owned the parcels here in issue and the building thereon, during all of the 1992 assessment year.

I also conclude that the areas of the building on these parcels used by Applicant during 1992, were used for charitable purposes.

In the case of *Mason District Hospital v. Tuttle*, 61 Ill.App.3d 1034

(1978), the Court held that a physicians' office facility constructed by a hospital and rented to several local physicians was used primarily for a noncharitable purpose, namely the direct financial benefit of the physicians who occupied it. Consequently, the area of the building on these parcels which was leased to four groups of physicians in private practice, was not used for charitable purposes during 1992.

Concerning the areas of the building on these parcels occupied by Damon, which was a partnership made up of Applicant and Mason-Barron Laboratories, a for-profit corporation, the Illinois Courts have consistently held that property which is leased or otherwise used with a view to profit, does not qualify for exemption, even if the net income is used for exempt purposes. *People ex rel. Baldwin v. Jessamine Withers Home*, 312 Ill. 136 (1924). See also *The Salvation Army v. Department of Revenue*, 170 Ill.App.3d 336 (1988, leave to appeal denied). Consequently, I conclude that the area occupied by Damon was otherwise used for profit during the 1992 assessment year.

As previously pointed out, the revenues generated by Applicant's laboratory work, constituted only approximately 25% of the net revenues of Damon during 1992. The Illinois Supreme Court in *Illinois Institute of Technology v. Skinner*, 49 Ill.2d 59 (1971), held that in the situation where the property as a whole was used for both exempt and nonexempt purposes, the property will qualify for exemption only if the exempt use is the primary use, and the nonexempt use is only incidental. Since the laboratory work of Applicant, a charitable organization, only constituted 25% of the net revenues of Damon during 1992, and the sources of the remaining 75% of Damon's revenues were not identified, Applicant has failed to establish that the area occupied by Damon, was primarily used for charitable purposes. See also *Evangelical Hospitals Corporation v. Department of Revenue*, 223 Ill.App.3d 225 (1991).

I therefore recommend that Cook County parcels 16-31-216-024-0000 and 16-31-216-025-0000 be exempt from real estate tax for the 1992 assessment year.

I further recommend that the 64% of the building on the parcels here in issue occupied by Applicant, be exempt from real estate tax for the 1992 assessment year.

Finally, I recommend that the 36% of the building on said parcels occupied by the physicians in private practice and Damon, remain on the tax rolls for 1992, and be assessed to Applicant.

Respectfully Submitted,

George H. Nafziger  
Administrative Law Judge

March , 1995